IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

-

WRIT PETITION NO: 1465 of 1998

Between

A.Rasheed S/o Shaik Hussain, Occ: Ex.Driver, E.No.39407

R/o 23-140, Nimmabowligadda, Jedcherla, Mahabubnagar District

.... PETITIONER

AND

1. The Labour Court III rep. by its Presiding Officer, Chandra

Vihar Buildings, 4th Floor, M.J.Road, Hyderabad.

2. The Depot Manager, A.P.S.R.T.C., Wanaparthy,

Mahabubnagar District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the 1st respondent and issue an appropriate writ , order or direction, particularly one in the nature of Writ of Certiorari and quash the award passed by the 1st respondent in I.D.No.382 of 1994 dated 1.8.1997 published on 25.9.1997 holding it as illegal, unjust , contrary to law and grant all consequential benefits, and pass such other order or orders as deemed fit and proper under the circumstances of the case.

Counsel for the Petitioner: MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondent: MR.P.VINAYAKA SWAMY

The Court made the following:

ORDER:

This writ petition is filed by the workmen aggrieved by the Award passed by the Labour Court III, Hyderabad, in I.D.No.382 of 1994, dated 1.8.1997, wherein the claim petition filed by the workmen/petitioner was dismissed without granting any relief.

2. According to the petitioner, he joined the service of the respondent Corporation in the year 1971 and put in a clean record of service till he was illegally removed from service by order dated 24.7.1986. The petitioner was issued with a charge sheet stating that he had unauthorisedly absented to duties without any permission or prior sanction of leave from 1.11.1985 to 31.12.1985. After conducting a detailed enquiry into the matter, the disciplinary authority passed an order of removal dated 24.7.1986. Aggrieved by the same, petitioner filed an appeal on 26.11.1987. The said appeal has not seen the light of the day. Therefore, he got issued a legal notice on 17.8.1993 calling upon the appellate authority to dispose of the appeal. Though, the legal notice got issued by the petitioner was acknowledged by the appellate authority on 19.8.1993, the appeal was not disposed of. Therefore, the petitioner raised industrial dispute before the first respondent, which was taken up as I.D.No.382 of 1994. In the claim petition filed before the Labour Court, the petitioner asserted that the domestic enquiry was not properly conducted, and the removal order passed by the first respondent was arbitrary and illegal. Even assuming that the misconduct was proved, it does not entail passing a harsh punishment of removal from service. Before the Labour Court, though no oral evidence was let in either by the workmen or by the management, however, on behalf of the workmen, Exs.W-1 to W-4 were marked. After a detailed consideration of the documentary

evidence available on record, the Labour Court came to the conclusion that the petitioner acknowledged the charge sheet, but failed to submit his explanation. Further, it shows that he is not interested in job. The explanation of the petitioner that he shifted his house and he was not well, was only an after thought. Discipline is required for the existence of any institution. The very fact that the petitioner has not taken care to give explanation to the charge sheet would show that the petitioner is not interested in service. In the counter filed by the management, it is stated that the petitioner was once removed from service. Even then, it appears that the petitioner has not mended himself. This must be ended. False sympathies would not improve discipline in the person without which industry cannot survive.

3. I have given my earnest consideration to the respective submissions made by the learned counsel on either side and looked into the material made available on record.

4. No merits relevant to the case were discussed, except writing some philosophy as to the industrial discipline. The Labour Court was supposed to discuss as to whether the enquiry conducted by the management was valid or not, and whether the punishment of removal was proportionate to the misconduct proved. Though, such questions were formulated at para 6 of the award, they were not properly addressed by the Labour Court. Be that as it may, the petitioner was removed from service, way back in the year 1987 and now we are in 2005. It is better to give quietus to this litigation at this stage, instead of remitting the matter back to the Labour Court.

5. As seen from the counter filed by the respondents and also the award of the Labour Court, except saying that the petitioner was removed once, what was the nature of misconduct involved and how he was reinstated into service were not mentioned anywhere. In the absence of all these details, since the petitioner has put in more than 17 years of service as on the date of his removal from service, it would suffice if the award of the Labour Court is modified ordering reinstatement with continuity of service, but without back wages and without any other attendant benefits including notional increments.

6. In the result, the award passed by the Labour Court is set aside and the

respondents are directed to reinstate the petitioner into service with continuity of service, but without any back wages and without any attendant benefits including notional increments.

7. The writ petition is allowed to the extent indicated above. No order as to costs.

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C.V.RAMULU, J

Dated: 9.6.2005.

RAR

To

1. The Presiding Officer, Labour Court III Officer, Chandra

Vihar Buildings, 4th Floor, M.J.Road, Hyderabad.

2. The Depot Manager, A.P.S.R.T.C., Wanaparthy,

Mahabubnagar District.

3) 1 CC to MR.JAYAPRAKASH RAO

4) 2 CD copies.